

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL ACTION NO.
)	2:17cr131-MHT
ROBERT JOHN KELLY)	

OPINION AND ORDER

Defendant Robert John Kelly pled guilty on August 28, 2017, to conspiracy to commit bank fraud and wire fraud in violation of 18 U.S.C. § 1349 and possession of stolen mail in violation of 18 U.S.C. § 1708. The question before the court is whether Kelly has the mental capacity to proceed to sentencing, that is, whether he is currently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is not able to understand the nature and consequences of the proceedings against him or to assist properly in his defense. See 18 U.S.C. § 4241(a). Based on the evidence presented during a hearing on July 27, 2018, the court finds that he has the mental capacity to proceed.

The issue of Kelly's competency first came to the court's attention on November 9, 2017, when the government filed a motion for mental competency examination. The government represented that Kelly suffered from depression and schizophrenia, and had attempted suicide on three occasions. Kelly began using illegal drugs in his early teens, and, despite completing an in-patient substance-abuse treatment program while on pre-trial release, he overdosed on cough and cold medicine and smoked methamphetamine, ultimately leading to his bond revocation. In the interest of ensuring that he would not be inappropriately punished for having a disease, the court ordered a competency examination and a mental-health evaluation to assess his culpability for the instant offenses.

Kelly was then transferred to the Federal Medical Center, Butner, North Carolina, where he was evaluated by Dr. Heather H. Ross, Ph.D. Dr. Ross's report to the court states that Kelly warrants the following

diagnoses: Severe Stimulant Use Disorder; Severe Opioid Use Disorder; Severe Alcohol Use Disorder; Persistent Depressive Disorder; and Antisocial Personality Disorder. See Psychiatric Report (doc. no. 497) at 12. However, Dr. Ross opines that Kelly is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense and, therefore, is competent to proceed. See *id.* at 13. At the competency hearing on July 27, 2018, neither party disputed the report's finding that Kelly is competent.

Therefore, based upon the psychological evaluation by Dr. Ross, and pursuant to 18 U.S.C. § 4241(a), the court concludes that Kelly has not suffered throughout these proceedings, and is not currently suffering, from a mental disease or defect such that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Accordingly, it is ORDERED that defendant Robert John Kelly is declared mentally competent to proceed in this case.

DONE, this the 31st day of July, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE